

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BUNNY K.K.,

Plaintiff,

v.

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

CASE NO. 2:24-CV-5086-DWC

ORDER REVERSING AND
REMANDING DEFENDANT’S
DECISION TO DENY BENEFITS

Plaintiff filed this action under 42 U.S.C. § 405(g) seeking judicial review of Defendant’s denial of her applications for supplemental security income benefits (“SSI”) and disability insurance benefits (“DIB”).¹ The parties agree the Administrative Law Judge (“ALJ”) committed reversible error in considering certain medical opinion evidence. However, the parties disagree regarding whether this matter should be reversed and remanded for an award of benefits or remanded for further administrative proceedings. After considering the record, the Court finds Plaintiff has not demonstrated that extraordinary circumstances exist requiring remand with a

¹ Pursuant to 28 U.S.C. § 636(c), Federal Rule of Civil Procedure 73, and Local Rule MJR 13, the parties have consented to have this matter heard by the undersigned Magistrate Judge. *See* Dkt. 3.

1 direction to award benefits or that further administrative proceedings would not be useful.
2 Therefore, the Court remands this case for further administrative proceedings pursuant to
3 sentence four of 42 U.S.C. § 405(g) to the Commissioner of Social Security (“Commissioner”).

4 **I. Factual and Procedural History**

5 Plaintiff filed a claim for DIB in January 2018 and a claim for SSI in July 2018. Dkt. 8,
6 Administrative Record (“AR”) 223–24, 227–32. Her applications were denied at the initial level
7 and on reconsideration. AR 73, 90, 104–17. She requested a hearing before an ALJ, which took
8 place on June 12, 2019. AR 33– 52, 133–34. A supplemental hearing was held on October 9,
9 2019. AR 53–72. Plaintiff was represented by counsel at both hearings. *See* AR 33, 53. On
10 January 22, 2020, the ALJ issued an unfavorable decision denying benefits. AR 12–32. The
11 Appeals Council denied Plaintiff’s request for review, and Plaintiff appealed to this Court. AR
12 1–6, 217–20, 1507–08. Based on the parties’ stipulation, this Court reversed the ALJ’s decision
13 and remanded Plaintiff’s claim for a new hearing. AR 1529–35. In accordance with the Court’s
14 order, the Appeals Council vacated the Commissioner’s decision and remanded the case to the
15 ALJ. AR 1536–43. Another hearing took place on June 29, 2023, and the ALJ issued an
16 unfavorable decision denying benefits on October 4, 2023. AR 1414–48, 1449–79. Plaintiff
17 again appealed to this Court. *See* Dkts. 1, 6.

18 **II. Standard of Review**

19 When reviewing the Commissioner’s final decision under 42 U.S.C. § 405(g), this Court
20 may set aside the denial of social security benefits if the ALJ’s findings are based on legal error
21 or are not supported by substantial evidence in the record. *Bayliss v. Barnhart*, 427 F.3d 1211,
22 1214 n.1 (9th Cir. 2005) (citing *Tidwell v. Apfel*, 161 F.3d 599, 601 (9th Cir. 1999)).

1 **III. Discussion**

2 Plaintiff argues the ALJ erred in evaluating certain medical evidence, Plaintiff's
3 subjective symptom testimony, and lay witness evidence, resulting in an erroneous determination
4 of her residual functional capacity ("RFC"). Dkt. 18 at 2. She contends the proper remedy for
5 these errors is remand for an award of benefits. *Id.* The Commissioner concedes that the ALJ
6 erred in failing to explain how he considered the supportability of certain medical opinions. Dkt.
7 23 at 1. However, the Commissioner argues the appropriate remedy for these errors is remand for
8 further administrative proceedings. *Id.* at 1–2.

9 The Court may remand a case "either for additional evidence and findings or to award
10 benefits." *Smolen v. Chater*, 80 F.3d 1273, 1292 (9th Cir. 1996). Generally, when the Court
11 reverses an ALJ's decision, "the proper course, except in rare circumstances, is to remand to the
12 agency for additional investigation or explanation." *Benecke v. Barnhart*, 379 F.3d 587, 595 (9th
13 Cir. 2004) (quoting *INS v. Ventura*, 537 U.S. 12, 16 (2002)). The Ninth Circuit created a "test for
14 determining when evidence should be credited and an immediate award of benefits directed[.]"
15 *Harman v. Apfel*, 211 F.3d 1172, 1178 (9th Cir. 2000). Specifically, under this "credit-as-true"
16 test, benefits should be awarded where:

17 (1) the ALJ has failed to provide legally sufficient reasons for rejecting [the
18 claimant's] evidence, (2) there are no outstanding issues that must be resolved
19 before a determination of disability can be made, and (3) it is clear from the record
that the ALJ would be required to find the claimant disabled were such evidence
credited.

20 *Smolen*, 80 F.3d at 1292.

21 An ALJ's errors are relevant only to the extent they impact the underlying question of the
22 Plaintiff's disability. *Strauss v. Comm'r of the Soc. Sec. Admin.*, 635 F.3d 1135, 1138 (9th Cir.
23 2011). "A claimant is not entitled to benefits under the statute unless the claimant is, in fact,
24

1 disabled, no matter how egregious the ALJ's errors may be." *Id.* Therefore, even if the "credit-
2 as-true" conditions are satisfied, a Court should nonetheless remand the case if "an evaluation of
3 the record as a whole creates serious doubt that a claimant is, in fact, disabled." *Garrison v.*
4 *Colvin*, 759 F.3d 995, 1021 (9th Cir. 2014).

5 After reviewing the record, the Court concludes Plaintiff has not shown that the record is
6 free from important and relevant conflicts and issues remain that must be resolved concerning
7 Plaintiff's functional capabilities and her ability to perform other jobs existing in significant
8 numbers in the national economy. The resolution of these issues impacts the underlying question
9 of Plaintiff's disability. Therefore, remand for further administrative proceedings is appropriate.
10 The parties agree that, on remand, the ALJ must re-evaluate all medical and nonmedical
11 evidence in the record, including Plaintiff's subjective symptom testimony and the lay witness
12 testimony; reassess Plaintiff's impairments at steps two and three, her RFC, and her ability to
13 work at steps four and five; and offer Plaintiff the opportunity for a new hearing and further
14 development of the record before issuing a new decision. *See* Dkts. 23 at 3; 24 at 2.

15 IV. Conclusion

16 Based on the foregoing reasons, the Court accepts Defendant's concession that the ALJ
17 improperly concluded Plaintiff was not disabled. Accordingly, Defendant's decision to deny
18 benefits is reversed and this matter is remanded for further administrative proceedings in
19 accordance with the findings contained herein.

20 Dated this 27th day of September, 2024.

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23 David W. Christel
24 United States Magistrate Judge